

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

INTERNATIONAL BUSINESS  
MACHINES CORPORATION,

Plaintiff,

Case No. 7:20-cv-04573

v.

RODRIGO KEDE DE FREITAS LIMA,

Defendant.

**DECLARATION OF JAMES H. MCQUADE IN SUPPORT OF  
DEFENDANT'S PRE-HEARING BRIEF**

I, James H. McQuade, declare that:

1. I am an attorney at law admitted to practice before this Court and a partner of the law firm Orrick, Herrington & Sutcliffe LLP, counsel for Defendant Rodrigo Lima (“Lima”). As such, I am personally familiar with the facts set forth herein. I respectfully submit this declaration in support of Lima’s Pre-Hearing Brief.
2. Attached hereto as **Exhibit A** is a true and correct copy of excerpts from the deposition transcript of Diane Gherson dated July 7, 2020.
3. Attached hereto as **Exhibit B** is a true and correct copy of excerpts from the deposition transcript of Randy Walker dated July 8, 2020.
4. Attached hereto as **Exhibit C** is a true and correct copy of excerpts from the deposition transcript of Juan Zufiria dated July 10, 2020.
5. Attached hereto as **Exhibit D** is a true and correct copy of a Wall Street Journal article titled “Amazon Has Long Ruled the Cloud. Now it Must Fend off Rivals,” produced during discovery and bates-stamped MSFT\_000001378-85.

6. Attached hereto as **Exhibit E** is a true and correct copy of a Financial Times article titled, “IBM turns to Technologist Chief for Cloud Computing Battle,” produced during discovery and bates-stamped MSFT\_000001386-91.

7. Attached hereto as **Exhibit F** is a true and correct copy of a Deccan Chronicle article titled, “Thousands of IBM US jobs likely Cut as new CEO Arvind Krishna Sharpens Firm’s Focus,” produced during discovery and bates-stamped Lima\_000001144-56.

8. Attached hereto as **Exhibit G** is a true and correct copy of a Kinsta article titled “Cloud Market Share – a look at the Cloud Ecosystem in 2020,” produced during discovery and bates-stamped Lima\_000001079-1106.

9. Attached hereto as **Exhibit H** is a true and correct copy of a Forbes article titled, “IBM is Catching up with Microsoft and Amazon,” produced during discovery and bates-stamped Lima\_000001123-29.

10. Attached hereto as **Exhibit I** is a true and correct copy of an article from whatcompetitors.com titled, “Top 10 IBM Competitors in 2020,” produced during discovery and bates-stamped Lima\_000001157-67.

11. Attached hereto as **Exhibit J** is a true and correct copy of excerpts from the deposition transcript of Paul Holloway dated July 9, 2020.

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 13, 2020 at New York, New York

By: \_\_\_\_\_ /s/ *James McQuade*  
James McQuade